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Legislative Assembly of British Columbia

BILL 13

**LAND TITLE AND PROPERTY LAW
AMENDMENT ACT, 2024**

Honourable Murray Rankin
Minister of Indigenous Relations and Reconciliation

Explanatory Notes

CLAUSE 1: *[Land Title Act, Part 23.1]* adds a Part respecting instruments executed by or on behalf of First Nations.

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**LAND TITLE AND PROPERTY LAW
AMENDMENT ACT, 2024**

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Land Title Act

1 The Land Title Act, R.S.B.C. 1996, c. 250, is amended by adding the following Part:

**PART 23.1 – EXECUTION OF INSTRUMENTS
BY OR ON BEHALF OF FIRST NATIONS**

Definition

365.1 In this Part, “**First Nation**” means the following:

- (a) the Nisga’a Nation;
- (b) a Nisga’a Village;
- (c) a treaty first nation;
- (d) a band as defined in the *Indian Act* (Canada);
- (e) a successor to a band as defined in the *Indian Act* (Canada) that, under an Act of Canada, is established as a legal entity;
- (f) any other body of Indians that, under an Act of Canada, is established as a legal entity.

Execution of instrument by or on behalf of First Nation

- 365.2** (1) In this section, “**officer**” has the same meaning as in Part 5.
- (2) An instrument executed by or on behalf of a First Nation is conclusively deemed to be properly executed if
- (a) the execution of the instrument by an authorized signatory of the First Nation is witnessed by an officer who is not a party to the instrument, and
 - (b) the execution is proved under section 44 as if the First Nation were a corporation.

CLAUSE 1: *[Land Title Act, Part 23.1 – continued]*

- (3) An instrument executed and proved in compliance with subsection (2) constitutes conclusive evidence to the registrar that the requirements of the laws of the First Nation relating to the execution of the instrument and the transaction or dealing contemplated by it have been fulfilled.
- (4) If an instrument executed by or on behalf of a First Nation is presented for registration or filing under this Act, the registrar need not act on, inquire into or give effect to the laws of the First Nation or make any inquiry into the capacity of the First Nation or make any other inquiry into whether or not
 - (a) any law of the First Nation is in force,
 - (b) the transaction or dealing contemplated by the instrument was duly authorized in accordance with the laws of the First Nation,
 - (c) all rules and procedures established by the First Nation respecting the disposition of an estate or interest in land have been complied with, or
 - (d) the First Nation subsists as a legal entity.
- (5) In addition to the limitations of liability established under sections 294.6 and 303 of this Act, none of the following are, under any circumstances, liable for compensation for loss, damage or deprivation occasioned by an ultra vires or unlawful act of a First Nation:
 - (a) the assurance fund under Part 19.1 of this Act;
 - (b) the assurance fund under Part 20 of this Act;
 - (c) the Land Title and Survey Authority;
 - (d) the minister.

First Nation powers assumed

- 365.3**
- (1) For the purpose of this Act, a First Nation is deemed to have the power and capacity of a natural person of full capacity in acquiring and disposing of land despite a stipulation, restriction or qualification expressed or imposed in any other Act or law, or in any other document.
 - (2) Subsection (1) does not relieve a person who under an Act or law is responsible for or in control of a First Nation from liability for acts of the First Nation that, despite subsection (1), are beyond the powers of the First Nation.
 - (3) If a First Nation holds land in a fiduciary capacity, subsection (1) is subject to section 180 and does not
 - (a) extend the powers of the First Nation in respect of that land, or
 - (b) relieve the First Nation or a person who by statute or law is responsible for or in control of the First Nation from liability to the beneficiaries for an act of the First Nation that is beyond its powers, or is contrary to the trusts under which the First Nation holds the land.

CLAUSE 1: *[Land Title Act, Part 23.1 – continued]*

CLAUSE 2: *[Property Law Act, section 44]* provides First Nations with the power and capacity of a natural person to acquire and dispose of land, including as a joint tenant.

- (4) Subsection (5) applies despite
 - (a) any other Act or law, or
 - (b) any other document.
- (5) An instrument executed by or on behalf of a First Nation is, in favour of all persons dealing in good faith with the First Nation, conclusively deemed to be properly executed and the instrument takes effect accordingly if
 - (a) the instrument is executed for the First Nation by an individual whose signature is represented in the instrument as the signature of an authorized signatory of the First Nation, and
 - (b) the execution of the instrument is witnessed or proved in accordance with Part 5.
- (6) The registrar may accept the signature of an officer under Part 5 or an affidavit under section 49 as sufficient evidence that a First Nation existed at the time an instrument was executed by it, or the registrar may require further evidence of that fact.

Property Law Act

2 *The Property Law Act, R.S.B.C. 1996, c. 377, is amended by adding the following section:*

First Nations

- 44** (1) In this section, “**First Nation**” means the following:
- (a) a band as defined in the *Indian Act* (Canada);
 - (b) a successor to a band as defined in the *Indian Act* (Canada) that, under an Act of Canada, is established as a legal entity;
 - (c) any other body of Indians that, under an Act of Canada, is established as a legal entity.
- (2) A First Nation has the power and capacity of a natural person to acquire and dispose of land in British Columbia.
- (3) For the purposes of subsection (2), a First Nation has the capacity to acquire and hold land in joint tenancy.

Commencement

- 3** This Act comes into force on May 21, 2024.